P. F. 70 of 96.

G. R. S. IX-5]

Previous references.

1890-91
~~192~~ .
(L. R.)

File No. 82 of 90

Serial Nos. 1 to 5

Later references.

L. R. 134 of 95

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 5

M ~~Part~~ B for December 1891

SUBJECT.

Dispute regarding the Patels of Annehalu Chitaldrug taluk.

WD 2233—GPD—20,000—14-6-26

Endorsed

(4)

Appeal No 30 & 29 May 1891

Appts —

1 Rangappa
2 Ramcha — } brothers
of Honnehalli
Challakeray Tal
represented by
Mr N. Subbaraja
1st grade Pleader

Respt
Boriah
represented by
Mr Ramanna
advocate.

This is a claim for the office of Patail of Honnehalli. The Regrs of 1845 & 1865 shew that the uncle of the appellants was the Hereditary of the office, but that he abandoned the office & went away to another village sometime before 1835. The office remained vacant for a long time, & the duties were performed either by the Shanbhoga or some other person without any orders from the Dt or Taluq authorities. In 1872, the Dy Comr ordered one Manya to perform the duties of the office till further orders. Somehow, he ceased to perform the duties, & one Kadappa officiated for some time without any orders - & at last the Dy Comr appointed Respt as Patail in 1879 as he was found to be qualified to hold the office. — In 1890, appellants

brought a deed for the office, but the Court dismissed it on the ground that the appellants name had ceased thereby right to the office by lapse of time. — The appeal is against the decision —

The appellants urge that the deed cannot be said to be barred by the Law of Limitation, since the Respt has not been in office for upwards of 12 years. — They also urge that none of the persons who performed the duties prior to 1879 — did so at the request of the appellants, and there is no evidence to prove the assertion respecting the statement of one Radha who performed the duties of the office for 2 or 3 years before the Respt was appointed. He (Radha) states that he performed the duties at the request of some of women belonging to the appellants family, but the whole record is against this and the appellants abandoned the office, & different persons performed the duties without any authority.

The Govt are of opinion that

Although the Deed is not barred by the Law of limitation, since the Respts have not been in possession of the office for upwards of 12 years, still, the Appellants have lost their right by continued absence from the Colleges for upwards of 50 years. In the case of all appointments held on the condition of service the performance of service is an essential condition for the preservation of right & in this case it is clear that the Appellants neither performed the service or offered to perform it for a period of 50 years. The office having been thus abandoned, & for a long time, the Dr Court was justified in appointing Respt unconditionally, & there is no reason for cancelling this appointment.

But in consideration of

The prior rights of the appellants & of the first two the appointments were not created prior to 1879,
the Govt direct that the Appellants
be registered as the Hereditary
& their claims to hold the Office
considered when a vacancy occurs.
To entitle them to claim the Office
when a vacancy occurs, they must
of course live in the village &
hold lands.—

W.C.
2/1/1891

Rec'd

Appellants having always held
Office for upwards of 50 years have
forfeited their rights to it, but
in consideration of their prior rights
the Govt are pleased to recognize them
as Hereditary & their claims to Office
will be considered when a vacancy
occurs. To entitle them to claim the
Office, they must live in the village & hold lands
W.C.

L. R. 82-90-1

Appeal is within time.
Petition sufficiently stamped.
Copy of the decision of the
Lower Court is produced.
Rule 1 of Civil Rules
complied with.

14/7/91 A1

(General Serial No. 32.)

1891.

(1)

No. 402

Name of Petitioners Rungappa and Kenchal

Village. Hanmehall.

Taluk. Chittaldroog.

District. Chittaldroog.

Date of Arzi. 25-5-91.

Date of Receipt. 29th May 1891

Date of Disposal.

No. of Enclosures. 1

Calcd. 90 Rs. 45

ABSTRACT.

Appeal against the order
of the Deputy Commissioner
of Chittaldroog in Revenu
Case No 19 of 1890-91, on hi
file, dated 17th March 189
dismissing the petitioners' su
for recovery from one Boria
of the Cately Kuch of the Villa
of Hanmehall in the Chitta
-droog Taluk, on the follow
-ing grounds:—

1. The Lower Court having
recognized the Petitioners' ha
to the Office, and also foun
that the Counter-petitione
Coriasa

(original Defendant) had
no right to the Patelgi, erred
in dismissing their Cause.

That the Lower Court is
not justified in repudiating
the petitioners' claim to the
office, on the ground that
one of the Petitioners' family
members did not hold or
enjoy the disputed patelgi for
last 25 years and that
therefore they have forfeited
their title and interest in the
office, keeping in view the
following points:

That during the life-time
of the petitioners' father, Shan-
bogue Narainappa and
others executed the duty of
the patelgi in question at
his will and consent; other-
wise he would have fought
out the question.

That no such records are
forthcoming in the Lower Court;
as would demonstrate that
other persons as against the
petitioners' right enjoyed the
office during the life time
their father; and in the

absence of such proof, the inference is that the Office was in the enjoy-ment of the petitioners' family till their father's death.

5. That the Counter-petitioner's statement that the father of the petitioners was alive in the year 1879 at the time of the Pakka Colagi Settlement, is not sup-ported by any evidence; petitioners' father had died just then, and the petitioners were minors; the Officer of the Pakka Colagi Settle-ment ordered that the Muchalcas should be produced: this order con-firmed the petitioners' right, even at the time of the settlement of the Pakka Colagi amount.

6. That the orders of the Pakka Colagi Settlement Officer were not carried out, and the Counter-petitioner was appointed by

by Government as Gumasta: this would signify that Government appointed Counter-petitioner as a temporary Gumasta, on behalf of the landholders, to be removed by Government at any time at the request of the landholders.

1 Rs Stamp paper and 1 R. Stamps

H.V.
12/7/91

The order appealed against is in English.

No 21 No 9.

MYSORE DEWAN'S OFFICE (2)

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

LR 82-90-2

The accompanying Petition No. 402 dated 25th May/91 received at the Dewan's Office from Ramappa & Kencha residing in Hannichall, Chitaldroog Dist,

is forwarded, together with its one enclosures, to the Deputy Commr Chitaldroog Dist, for submission of proceedings with a precis thereof.

By Order,

for Chief Secretary.

BANGALORE, 5th Sept 1891.

Drafted as per Councillor's orders

10

No. General Serial No. 5[illegible] 6443

OFFICE OF THE DEPUTY COMMISSIONER CHITALDROOG 28 SEP. 91 (3)

1891 P. 14

From The Deputy Commissioner Chitaldroog District

To The Chief Secretary to the Govt of Mysore

Dated 22d
Despatched 23d } September 1891
Received

Enclosures No. 2. together with Proceedings sent Separately.

General No. 312.
No. 294.

His Official Memorandum No. 21 dated 5th Instant

As called for in the above, has the honor to submit herewith the marginally noted Revenue case in the matter of the Potels of Honné-hal village in the Chitaldroog Taluq, and

L.R. 82-90-3.

Revenue Original Case No. 19 of 1890-91 on the file of the Deputy Commissioner

To the same No. 1048 dated 22/9/91 P. 43

Submitted to the Council.
1st Octr/91 AR

28/9/91

1/10/91

28-9-91.

and to state that the English judg-
-ment contains a precis of the whole
case.

The enclosures of the docket
under reply are herewith returned.

I am Sir
Your obedient Servant
Deputy Commissioner
Chitaldurg District

MYSORE COURT FEE

12

25/5/91

No. 40

Regd

ಸಂಖ್ಯೆ: ಕಂದಾಯ ಇಲಾಖೆ(ಭೂಮಿ)ಸಿಆರ್ ೨೭೫/೨೦೧೨-೧೩

ಕಂದಾಯ ಇಲಾಖೆ(ಭೂಮಿ)ಸಿಆರ್ ೨೭೫/೨೦೧೨-೧೩ ಕಾಯ್ದೆ ಮತ್ತು ಶಾಸನಗಳ ಇಲಾಖೆ ಸಂಖ್ಯೆ: ಕಾಶಾಇ ೨೭೫/೨೦೧೨-೧೩ ಕಾಯ್ದೆ ಮತ್ತು ಶಾಸನಗಳ ಇಲಾಖೆ ಸಂಖ್ಯೆ: ಕಾಶಾಇ ೨೭೫/೨೦೧೨-೧೩

ಕಂದಾಯ ಇಲಾಖೆ(ಭೂಮಿ)ಸಿಆರ್ ೨೭೫/೨೦೧೨-೧೩ ಕಾಯ್ದೆ ಮತ್ತು ಶಾಸನಗಳ ಇಲಾಖೆ ಸಂಖ್ಯೆ: ಕಾಶಾಇ ೨೭೫/೨೦೧೨-೧೩ ಕಾಯ್ದೆ ಮತ್ತು ಶಾಸನಗಳ ಇಲಾಖೆ ಸಂಖ್ಯೆ: ಕಾಶಾಇ ೨೭೫/೨೦೧೨-೧೩

ಕಂದಾಯ ಇಲಾಖೆ(ಭೂಮಿ)ಸಿಆರ್ ೨೭೫/೨೦೧೨-೧೩ ಕಾಯ್ದೆ ಮತ್ತು ಶಾಸನಗಳ ಇಲಾಖೆ ಸಂಖ್ಯೆ: ಕಾಶಾಇ ೨೭೫/೨೦೧೨-೧೩ ಕಾಯ್ದೆ ಮತ್ತು ಶಾಸನಗಳ ಇಲಾಖೆ ಸಂಖ್ಯೆ: ಕಾಶಾಇ ೨೭೫/೨೦೧೨-೧೩

ಕಂದಾಯ ಇಲಾಖೆ(ಭೂಮಿ)ಸಿಆರ್ ೨೭೫/೨೦೧೨-೧೩ ಕಾಯ್ದೆ ಮತ್ತು ಶಾಸನಗಳ ಇಲಾಖೆ ಸಂಖ್ಯೆ: ಕಾಶಾಇ ೨೭೫/೨೦೧೨-೧೩ ಕಾಯ್ದೆ ಮತ್ತು ಶಾಸನಗಳ ಇಲಾಖೆ ಸಂಖ್ಯೆ: ಕಾಶಾಇ ೨೭೫/೨೦೧೨-೧೩

VI

VII

VIII

16

Hearing 26 Nov 1891
Gen notice to Bar
Hansard
23/10/1891

In the Court of the Deputy Commissioner
of the Chikaloor 9th Talk
This 17th day of March 1891.
Present: B. Jemmalachariar Esq. B.L.
Deputy Commissioner and
Revenue Original Case No 19 of 1890-91

Plaintiffs &c
1 Ramappa
2 Kenchi, minor
guardian &c Plff.

Defendants
Bolanya
Patil of
Hanchal
in the Chikal-
loor Talk

Judgment

The Plaintiffs sue to
recover from the defendant
the Patili Hack of the
village of Hanchal in
the Chikaloor Talak. Their
allegations are that
the Hack originally
belonged to their family
and

that their paternal uncle
Hanumakka Chikka Kempappa
held the office in dispute
until their death which
occurred many years ago that
they left no issue surviving
them; that Plaintiffs father
lived at that time residing
at a village called Gombanoor,
that the Plaintiffs father
died during the last
famine while the Plaintiffs
were minors; that Shanbogue
one Hanumappa did the
duties of the office for
some years, assisted by
one Kallappa, who was
a relation of the Plaintiffs;
that at the Pakka Potigi
Settlement, none of the
Inamdars having appeared

to claim the office, the
Settlement officer directed
the Amildar to inquire into
the matter and make a
report; that the Amildar
without making proper
enquiry as to the existence
of any Huckdars to the Potali
made a recommendation
in favor of the defendant
who was accordingly appointed
Potail in the year 1879, that
the Plaintiffs having been
minors at the time were
unable to put forward
their claims; that the 1st
Plaintiff, on attaining his
majority, presented a
petition to the Commr.
on 29th July 90, but was
informed in reply, by an
order dated 9th September
No 198, that he should
establish his right, if any
by a regular Suit.

To

that none of the Plaintiffs'
ancestors ever held the
office of Potail now claimed
by the Plaintiffs; that
certain persons who are
alleged to be the Plaintiffs'
ancestors, though named
in the Registers of 1867-68
and 1865-66, had never
done the duties of the office
for upwards of 25 years
past; that Shanbogue
Kumappa was doing the
duties for many years;
that Kadluppa who is
alleged to have assisted
the Shanbogue in the performance
of those duties was not
related to the Plaintiffs
in any way; that the Potailtum
was acquired by the
Defendants' ancestors
many years ago; that Defts.
grandfather Malluppa,

his father Rayappa, his
uncle Madhidduppa,
and his cousin Maruppa
had at various times
done the duties of Potail,
that owing to want of con-
-tinuity in the enjoyment
of the office by members
of defendants family, the
Shanbogue entered the name
of others in the Registers
prepared in former years
that the Plaintiffs father
was alive for some years
after the Pakka Potigi
Settlement, and that if
he had any real claim
or right to the office, he
would have established
the same and duly recovered it

The evidence of Plaintiffs
own witnesses shews that
the Plffs father never did
the duties of the office
and that he lived in

separate village altogether.
It also shows that for
more than 25 years past,
no members of Plaintiffs'
family have ever held the
office in dispute. Plaintiffs
1st witness Hariamah stat.
that Plaintiffs grandfather
had 4 sons named Basanna,
Nonnappa, Chikkarungana,
and Karibasannah; that
of these, Basanna held
the office for about 2 years
some 40 or 45 years ago;
that after his death, Nonnappa
performed the duties for
about 2 years; and that
after that, all of them
went and lived at Gontar
now. Plaintiffs 2nd witness
Kadlappa states that some
30 years ago Plaintiffs uncle
Nonnappa held the office
of Potail for some years,
and that the Plaintiffs

ancestors

left the village and went away to the village of Goontanoor about 25 years ago. Plaintiff's remaining witnesses also depose to the same effect.

It is therefore clear that whatever may have been the right of the Plaintiff's ancestors to the Potuli hook in dispute, no member of the Plaintiff's family has held the office or performed its duties for a period exceeding 25 years past. Plaintiffs have therefore forfeited their right to the office by lapse of time, and the defendant who was appointed by Government as Potail in 1879 should not in my opinion be disturbed from holding and enjoying the office.

I therefore dismiss the Plaintiff's suit with costs.

Signed B. Tennakoon
"True Copy"

A Ranganayagam
Assistant Commissioner

Copy applied for 25/3/91 No. of words 710
by Kadappa
Ready for delivery 11/5/91 Amount
Date of delivery 25/5/91 of fee "-12-4
Comp. 9 fee "-2-8
Paper cost "-"-4
Total "-15-"

Compared.
BL

Received

24

(General Serial No. 30).

189/. (4)

From The Chief Secretary to the Govt of Mysore

To The Deputy Commr Chitaldroog Dist

Dated 22
Registered 28 } December
Received

Enclosures No. V.P.

General No. 10490 The
No. 743

Forwarding copy of Govt. decision on appeal preferred by Ranjappa, & Kencha (brothers) of Honnehalli, Chitaldroog Taluk & Boriah, directing that appellants be registered as Huckdars of the Attili Office (when a vacancy occurs) on condition of their residing in the village & holding lands.

L. R. 82-90-4

(41)

Before the Government of *His Highness* the Maharaja of Mysore.

Appeal No. 30 of 29th May 1891.

Appellants	Vs.	Respondent.
1. Rangappa 2 Kancha - } brothers of Honnahalli Chitaldrug Taluk, represented by Mr. N. Subbarow, 1st grade pleader		Boriah represented by Mr. Ramanna advocate

Decision. 27-11-91

This is a claim for the office of Potail of Honnehalli. The Registers of 1845 and 1865 show that the uncle of the appellants was the Huckdar of the office, but that he abandoned the office and went away to another village, some time before 1835. The office remained vacant for a long time and the duties were performed either by the Shanboque or some other person without any orders from the District or Taluk authorities. In 1872, the Deputy Commr ordered one Ramya to perform the duties of the office till further orders. Somehow, he ceased to perform the duties, and one Rangappa officiated for some time without any orders.

and at last the Deputy Commr appointed Respondent as Potail in 1879 as he was found to be qualified to hold the office. In 1890 appellants brought a suit for the office, but the Deputy Commr dismissed it, on the ground that the appellants have forfeited their right to the office by lapse of time. The appeal is against this decision. The appellants urge that the suit cannot be said to be barred by the Law of Limitation, since the Respondent has not been in office for upwards of 12 years. They also urge that some of the persons who performed the duties prior to 1879 did them at the request of the appellants, but there is no evidence to prove this assertion, excepting the statement of one Kadlappa who performed the duties of the office for 2 or 3 years before the Respondent was appointed. He (Kadlappa) states that he performed the duties at the request of some old woman belonging to the appellants' family, but the whole record shews that the appellants abandoned the office, and different persons performed the duties without any authority.

The Government are of opinion that though the suit is not barred by the Law of Limitation

since the Respondent has not been in possession of the office for upwards of 12 years, still the appellants have lost their right by continued absence from the village for upwards of 50 years. In the case of all appointments held on the condition of service, the performance of service is an essential condition for the preservation of the right and in this case it is clear that the appellants neither performed the service nor offered to perform it for a period of 50 years. The office having been thus abandoned for a long time, the Deputy Comm. was justified in appointing Respondent unconditionally, and there is no reason for cancelling this appointment. But in consideration of the prior right of the appellants, and of the fact that the appointment was not filled up till 1879, the Government direct that the appellants be registered as the Huckdars, and their claims to hold the office considered when

since the Respondent has not been in possession of the office for upwards of 12 years, still the appellants have lost their right by continued absence from the village for upwards of 50 years. In the case of all appointments held on the condition of service, the performance of service is an essential condition for the preservation of the right and in this case it is clear that the appellants neither performed the service nor offered to perform it for a period of 50 years. The office having been thus abandoned for a long time, the Deputy Comm^r was justified in appointing Respondent unconditionally, and there is no reason for cancelling this appointment. But in consideration of the prior right of the appellants, and of the fact that the appointment was not filled up till 1879, the Government direct that the appellants be registered as the Huckdars, and their claims to hold the office considered when

a

a vacancy occurs. To entitle them to claim the office when a vacancy occurs, they must of course live in the village and hold lands.

'By order'

Under Secretary

No 1047 R. 22/12/91
P. 43 23

Copy forwarded to the Dy: Comm[r]: Chittal-drug Dist[t] with the ver: pro: received with his No. 314/294 of 22d Septr 91

'By order'

Under Secretary

No. 30.

L.R 82-90-5

Appellants
1. Rangappa } brothers
2 Kencha }
of Honnahalli, Chitaldrug Taluk
represented by Mr. Subbarow,
1st grade pleader

Respondent
Boriah
represented by
Mr. Ramanna,
advocate

Endorsement

In reply to — their Petition dated 29th May 1891. Petitioners are informed that they having abandoned the office for upwards of 50 years, have forfeited their right to it, but in consideration of their prior right, the Government are pleased to recognise them as Huckdars and their claims to office will be considered when a vacancy occurs. To entitle them to claim the office, they must live in the village and hold lands.

2. The enc: is returned.

Mysore Dewan's Office,
Petition Department,
189 .

By Order,

Under Secretary.

Mysore Government Central Press Bangalore.—26-9-91—1000.

Issued
28/12/91